

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

DAVID L. LILLER,

Plaintiff,

Civ. Action No.

6:05-CV-1008 (NAM/DEP)

vs.

C&S WHOLESALE GROCERS, INC.,

Defendant.

APPEARANCES:

OF COUNSEL:

FOR PLAINTIFF:

SCHWARTZ LAW FIRM
191 Guy Park Avenue
Amsterdam, NY 12010

CHARLES R. SCHWARTZ, ESQ.
ROBERT YOUNG, ESQ.

FOR DEFENDANT:

RAVEN, KOLBE LAW FIRM
110 East 59th Street
Suite 202
New York, NY 10022

GEORGE S. KOLBE, ESQ.

DAVID E. PEEBLES
U.S. MAGISTRATE JUDGE

ORDER

On October 25, 2007, I issued an order in connection with this action in which, *inter alia*, while denying as moot plaintiff's motion for sanctions based upon defendant's failure to comply with a discovery-related text

order, I awarded plaintiff reasonable expenses, including attorneys' fees, caused by defendant's failure to comply with the court's text order, pursuant to Rule 37(b)(2) of the Federal Rules of Civil Procedure. Dkt. No. 36. Subsequent to the issuance of that order plaintiff's counsel has supplied an attorney's affidavit and supporting documentation outlining the fees expended and disbursements incurred as a direct result of defendant's non-compliance with the court's order, and requesting a fee award of \$5,031.25, as well as an additional award of costs totaling \$134.63, for a total award of \$5,165.88. Dkt. No. 37. Defendant has since filed an affidavit in opposition to plaintiff's request, arguing that the amount sought is excessive given the relatively simple nature of the motion brought. Dkt. No. 39.

Having reviewed the plaintiff's submission and defendant's opposition, and in the interest of justice, it is hereby

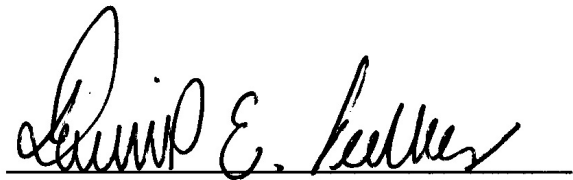
ORDERED as follows:

1) Plaintiff is hereby awarded attorneys' fees in the amount of \$3,500.00, and additionally expenses totaling \$134.63, for a total award of \$3,634.63, based upon defendant's non-compliance with this court's August 9, 2007 text order (Dkt. No. 24).

2) Within thirty days of the date of this order defendant shall forward to plaintiff payment in full for the amount awarded in this order.

3) The clerk is directed to serve a copy of this order to the parties in this action in accordance with this court's local rules.

Dated: November 19, 2007
Syracuse, NY

A handwritten signature in black ink, appearing to read "David E. Peebles", is written over a horizontal line.

David E. Peebles
U.S. Magistrate Judge